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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,487	08/19/2003	Peter H. Soderberg	281_382NP	5437

20874 7590 06/05/2006

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EXAMINER	
ASTORINO, MICHAEL C	
ART UNIT	**PAPER NUMBER**
3736	

DATE MAILED: 06/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/643,487	SODERBERG ET AL.	
	Examiner	Art Unit	
	Michael C. Astorino	3736	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *15 March 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *90-109* is/are pending in the application.

4a) Of the above claim(s) *92,93 and 107-109* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *90-91, 94-106* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

The examiner acknowledges the response filed November 30, 2005 and March 15, 2003, wherein claims 90-109 are pending. As per the election requirement claims 107-109 are withdrawn.

Election/Restrictions

Claims 107-109 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on March 15, 2006.

The applicant states in his response that the examiner search of the methods claims of Invention II would not be a serious burden to the examiner, because the process features were already searched by the examiner. The examiner disagrees. The examined claims in the previous office action do not have one process/method claim. Thus is it unclear why the applicant would suggest that such a process would have been searched.

Additionally in regards to claims 90-106 these claims are subject to the original election of species where the applicant elected vital sign sensor claims and not claims regarding imaging devices and identification devices, movable cart, GUI, treatment via infusion pumps, training, tracking inventory, fluid input and output ports. As such claims 92 and 93 are withdrawn as well.

Claim Objections

Claim 91 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. It appears that the applicant has attempted to claim method steps to attempt to further limit the claim. If that were the intent then such a claim would be rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. More specifically, Applicant cannot positively recite limitations that overlap statutory classes. In this case, the applicant may have been attempting to positive recite a method and apparatus in the same claim. See MPEP 2173.05(p) II.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 90 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "status" in the last line of claim 90 is vague. Claims 91, and 94-106 are rejected as being dependent on a rejected claim.

Claim 91 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear to the examiner how the applicant is intending to further structurally limit the claimed apparatus by the added limitations in claim 91.

Claim 96 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase "not structurally supported" in the claim is vague. Claims 101-102 are rejected as being dependent on a rejected claim.

Claim Rejections - 35 USC § 102

Note to Applicant: the word "for" and "configured to" in the claim may be properly interpreted as "capable of," and "capable of" does not require that reference actually teach the intended use of the element, but merely that the reference does not make it so it is incapable of performing the intended use.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 90-91, 94-101, and 103-106 are rejected under 35 U.S.C. 102(e) as being anticipated by Hanna US Patent Number 6,450,966 B1.

Claim 90. (New) A medical diagnostic workstation, said workstation comprising:

an assemblage supporting a computing device and at least one medical device that is connectable to at least one patient *for* obtaining physiologic data relating to a said patient wherein said computing device is configured to receive physiologic data from said at least one

connected medical device *for* storage of said data into at least one patient medical record; (column 7, lines 36-47)

said at least one supported medical device including a sphygmomanometer having an inflatable cuff and a pressure control assembly *for* inflating and deflating said cuff, wherein said pressure control assembly is automatically controlled to a predetermined inflation pressure by said workstation prior to measurement depending on the status of the patient. (column 7, lines 36-53)

In regards to claim 91, the applicant has failed to further limit the structure of the apparatus and therefore claim 91 is rejected on the same basis as claim 90.

In regards to claim 94, see abstract and figure 2.

In regards to claims 97-100, see column 8, lines 8-21.

In regards to claim 103, the assemblage can be moved therefore it is mobile.

Claim 104. (New) A medical workstation, said workstation comprising:

an assemblage supporting a computing device and at least one medical device that is *connectable* to a patient for obtaining physiologic data relating to a said patient wherein said computing device is *configured to* receive said physiologic data from said at least one supported medical device *for* storage in a database thereof; (column 7, lines 36-53)

said workstation being programmed to periodically collect physiologic data using said at least one supported medical device according to specified time intervals, said workstation being further programmed to sound an alert if readings obtained as physiologic data related to a said patient exceeds a predetermined percentage, wherein the basis of said alert about which said

percentage is applied is based upon a patient normal reading based upon an automated trend analysis of previously stored and existing readings relating to said patient. (column 8, lines 8-21, via error message)

In regards to claims 105-106, see abstract and figure 2.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 95-96 and 101-102 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hanna US Patent Number 6,450,966 B1 as applied to claims 90 and 96 above, and further in view of Halpern et al. US Patent Number 5,687,717 A.

In regards to claims 95-96 and 101-102, Hanna does not disclose his workstation as being part of a wireless network. However, Halpern et al. a reference in an analogous art does disclose the use of a blood pressure device in a wireless network (column 7, lines 58-65 and figures 1 and 4). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the blood pressure device of Hanna so as to be a part of the wireless network of Halpern et al., since Halpern et al. states the benefit of transporting and monitoring the blood pressure of a patient at the same time, see columns 1 and 2.

Response to Arguments

The examiner believes there are differences between the applicant's invention and applied prior art, Hanna. However Applicant has drafted his claims with intended use, and the claims are too broad to overcome Hanna. Applicant should draft claims that are narrower and more in concert with the arguments provided such that Hanna can no longer be applied as a reference. For example, the Hanna reference does not automatically control inflation and deflation based on if the patient is hypotensive or hypertensive.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Michael C Astorino** whose telephone number is **571-272-4723**. The examiner can normally be reached on Monday-Friday, 8:30AM to 3:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on 571-272-4726. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Michael Astorino
May 29, 2006

MAX F. HINDENBURG
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